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6 *Representing the United States of America*

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

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9 **UNITED STATES OF AMERICA,**

Case No.: 2:15-cr-00014-APG-VCF

10 **Plaintiff,**

GOVERNMENT'S MOTION TO
STRIKE DEFENDANT QAZI'S
"OBJECTION TO MAGISTRATE'S
ORDER (DKT. #413" [ECF NO. 415]

11 **vs.**

12 **OMAR QAZI,**

13 **Defendant.**

14 The United State of America, by and through DAYLE ELIESON, United States
15 Attorney, and PATRICK BURNS, Assistant United States Attorney, hereby respectfully
16 submits this Government's Motion to Strike Defendant Qazi's "Objection to Magistrate's
17 Order (DKT. #413" [ECF NO. 415].

18 **POINTS AND AUTHORITIES**

19 **Argument**

20 **A. Defendant Qazi's Violation of Local Rule IA 10-2 Warrants Striking His
21 Objection**

22 Defendant Qazi's unprofessional pleading should be stricken. Qazi lists the
23 United States as the "persecutor" and himself as the "accused." Qazi's incorrect

1 identification of the parties is a violation of local rule IA 10-2, which states that the first
 2 page of every document identify the name of the plaintiff and defendant as follows:

3
 4 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

5 Name(s) of plaintiff(s),

6 **Plaintiff(s)**

7 v.

8 Name(s) of defendant(s),

9 **Defendant(s)**

Case Number
 [Example: 2:16-CV-115-HDM-RAM]

Document Title
 [Example: Defendant Richard Roe's Motion in
 Limine to Exclude Expert Testimony]

10 See LR IA 10-2 (emphasis added). The local rules do not allow for parties to be identified
 11 by improper, vexatious titles, but rather by the formal titles of "plaintiff" or "defendant."
 12 Defendant's status as a pro se litigant does not free him of the responsibility to follow
 13 the law and the rules. *See King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir.1987) (holding pro
 14 se litigants are bound by the rules of procedure).

15 The *ad hominem* and unprofessional nature of Qazi's noncompliance warrants the
 16 Court in exercising its discretionary power to strike the document. LR IA 10-1 (providing
 17 the Court "may strike any document that does not conform to an applicable provision of
 18 these rules or any Federal Rule of Civil or Criminal Procedure."). The Government would
 19 not file a document referring to Qazi in an offensive or caricaturish light. The same
 20 standard should apply to Qazi who has long been acting as his own attorney and
 21 possesses the ability to refrain from such conduct. Without such a standard, the
 22 pleadings would degenerate to a very low level of professionalism and dignity. The
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1 document should be stricken as a sanction that will deter Qazi from such conduct in the
2 future. Merely striking the caption would have no deterrent value in that Qazi would
3 just continue to file motions styled in this offensive fashion, knowing that his pleading
4 would still be considered.

5 **B. Qazi's Objection is Patently Frivolous and Should Be Denied If Not**
6 **Stricken**

7 Despite a third attempt, Qazi still fails to explain why the matters discussed in
8 his notice are susceptible to or appropriate for judicial notice. His resort to invoking a
9 demand for judicial notice is legally frivolous, and calculated to compound the
10 proceedings, arrogating to himself limited judicial and prosecutorial resources. His
11 demands are not legally cognizable in the slightest.

12 “Judicial notice” is a court’s recognition of the existence of a fact without the
13 necessity of formal proof. *See Castillo–Villagra v. I.N.S.*, 972 F.2d 1017, 1026 (9th Cir.
14 1992). Rule 201 of the Federal Rules of Criminal Procedure governs judicial notice. That
15 rule provides, in relevant part, that the scope of judicial notice governs an adjudicative
16 fact only, not a legislative fact. Fed.R.Crim.Pro. 201(a). In order for a Court to take
17 judicial notice of a fact, the fact must not be subject to reasonable dispute because it is
18 generally known within the trial court’s jurisdiction, or can be accurately and readily
19 determined from sources whose accuracy cannot be reasonably questioned.
20 Fed.R.Crim.Pro. 201(b)(1) and (2). Examples of facts a court has taken judicial notice of
21 include matters of public record, *see Mack v. South Bay Beer Distrib.*, 798 F.2d 1219,
22 1282 (9th Cir. 1995), “records and reports of administrative bodies,” *Interstate Nat. Gas*
23 *Co. v. S. Cal. Gas Co.*, 209 F.2d 380, 385 (9th Cir.1953), facts relevant to a constitutional
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1 question, *see Rothe Development Corp. v. Department of Defense*, 545 F.3d 1023, 1045–
2 1046 (C.A. Fed. 2008) (judicially noticing facts relevant to equal protection challenge),
3 or well known or easily established facts, such firmly established scientific laws, see
4 generally *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 592 n.11 (1993), and well-
5 known medical facts, *see Barnes v. Indep. Auto. Dealers Ass'n of Cal. Health & Welfare*
6 *Benefit Plan*, 64 F.3d 1389, 1395 (9th Cir. 1995).

7 The facts Qazi asks this Court to take judicial notice of are not in any sense
8 susceptible to judicial notice. Instead, Qazi asks this Court to take judicial notice of
9 conclusory, and at times accusatory, arguments about the voluntariness of his post-
10 *Miranda* statement, his belief that the *Miranda* warnings he received were insufficient,
11 and baseless claims of undefined “BAD BEHAVIOUR” by the judges in this District. The
12 fact that the Qazi has to make arguments in an attempt to support his request for
13 judicial notice demonstrates that the subject matter of Qazi’s request are reasonably
14 disputed and questioned, and therefore improper for judicial noticing.

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Conclusion

WHEREFORE, after consideration of the included facts, points, authorities, exhibits, and arguments, the United States respectfully requests that this Court GRANT the Government's Motion to Strike Defendant Qazi's "Objection to Magistrate's Order (DKT. #413" [ECF NO. 415].

DATED this 4th day of April, 2018.

Respectfully submitted,

DAYLE ELIESON
United States Attorney

//s//

PATRICK BURNS
Assistant United States Attorney

CERTIFICATE OF SERVICE

I certify that I am an employee of the United States Attorney's Office. A copy of the foregoing **GOVERNMENT'S MOTION TO STRIKE DEFENDANT QAZI'S "OBJECTION TO MAGISTRATE'S ORDER (DKT.#413" [ECF NO. 415]** was sent to Defendant Qazi via United States mail addressed to:

Mr. Omar Qazi #49760048
NSDC 2190 East Mesquite Avenue
Pahrump, Nevada, 89060

and on stand-by counsel Telia Williams, Esq., via electronic service by ECF, on April 4, 2018.

DATED this 4th day of April, 2018.

/ s / Patrick Burns

PATRICK BURNS
Assistant United States Attorney